



# **STATE MINING AND GEOLOGY BOARD**

## **Policy and Legislation Committee**

*Brian Baca, Chair; Erin Garner; Kathy Lund*

## **EXECUTIVE OFFICER'S REPORT**

**For Meeting Date: June 9, 2011**

**Agenda Item No. 3: Discussion of Annual Fee Schedule for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq. and 2207).**

**INTRODUCTION:** Public Resources Code (PRC) Section 2207(d) requires the State Mining and Geology Board (SMGB) to impose by regulation an annual reporting fee on each active and idle surface mining operation. Active and idle surface mining operations are defined in PRC Sections 2207(f), 2714, 2727.1, 2735, and Title 14 California Code of Regulations (CCR) Section 3501, and include operations conducted by public agencies. PRC Section 2207(d) also states the annual fee imposed shall not be less than \$100 or more than \$4,000 for each operation. These amounts shall be adjusted for cost of living as measured by the California Consumer Price Index. Furthermore and most importantly, PRC Section 2207(d)(2)(A) requires fees to be calculated on an equitable basis reflecting the size and type of the operation, the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan

The SMGB at its March 10, 2011, regular business meeting accepted the 2010 Annual Mine Fees. With all industrial mineral sites now at the maximum fee amount with exception to those operations producing 100 tons or less, all gold and silver producers at the maximum fee amount with exception to those producing 10 ounces or less, and all base and other metals producers at the maximum fee amount with exception to those producing 10 pounds or less, this Committee is commencing discussion and consideration of other means in calculating the annual mine fees.

**STATUTORY AUTHORITY:** PRC Section 2207(d)(2)(A) requires a reporting fee schedule to be established on an equitable basis reflecting the size and type of the operation. The SMGB must consider: total assessed value of the operation, total acreage disturbed, and acreage subject to the reclamation plan. The SMGB is not restricted from considering other issues such as mineral production.

PRC Section 2207(d)(3) outlines the amount of revenue to be generated by the fee schedule. The fee schedule must provide for the collection of the amount specified in the Governor's Budget for the Department of Conservation's (Department) costs in implementing PRC Sections 2207 and SMARA. The total revenue generated by the reporting fees shall not exceed, and may be less than, \$3,500,000. This amount shall be adjusted for the cost of



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living beginning with the 2005-2006 Fiscal Year (FY) and annually thereafter. The current year cap as adjusted for the cost of living is \$4,173,834. Further, if the Director of the Department determines that the revenue collected in the preceding FY was greater or less than the cost to implement SMARA and PRC Section 2207, the SMGB shall adjust the fees to compensate for the over collection or under collection of revenues.

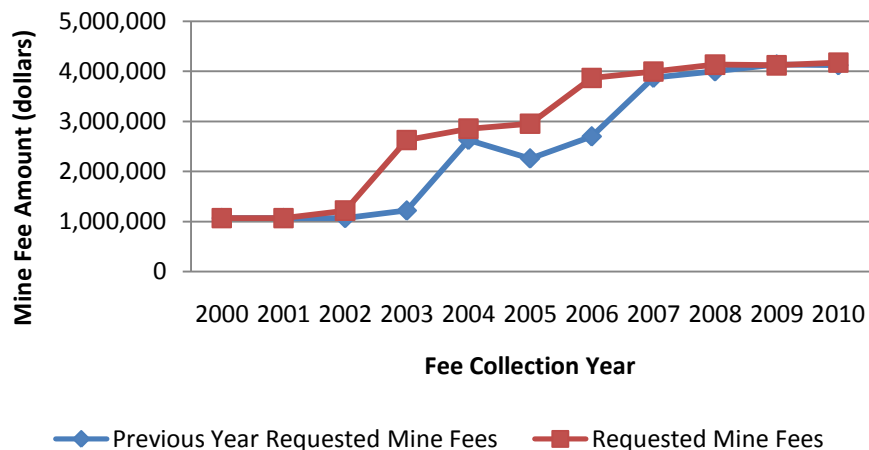
PRC Section 2207(d)(4) requires the reporting fees to be deposited in the Mine Reclamation Account to be used to carry out the provisions of SMARA and PRC Section 2207. In addition, this subdivision provides for additional reporting fees on gold and silver production, which are to be collected by the SMGB and deposited into a special Abandoned Mine Reclamation and Minerals Fund Subaccount. Monies in this Subaccount may only be used to implement SMARA Sections 2796.5 and 2797, and used to remediate or complete remediation of abandoned mined lands.

PRC Section 2207(d)(5) authorizes the assessment of a penalty on surface mining operations for late payment of annual reporting fees. This statute also requires new mining operations to submit an annual reporting fee according to the fee schedule adopted by the SMGB.

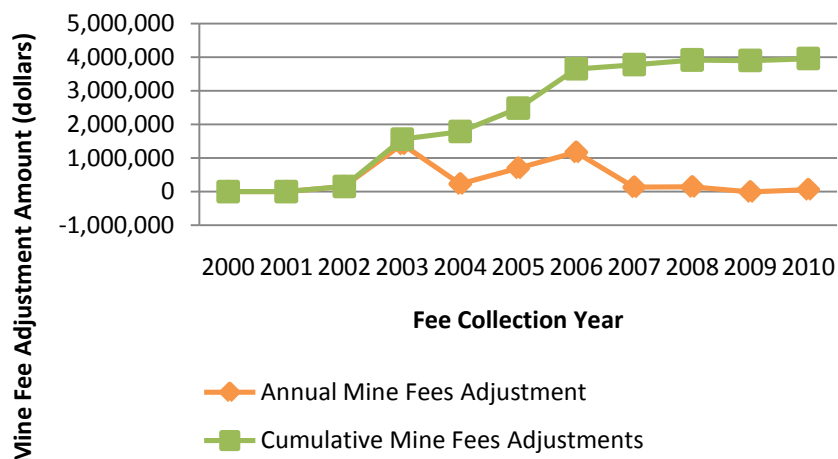
**DISCUSSION:** The amount requested by the Department of Conservation for Calendar Reporting Year 2010 was \$4,173,834; this amount represented an increase of \$53,564 over the amount requested for Calendar Reporting Year 2009. Estimating the funds to be collected in Calendar Year 2009 from set fees described in CCR Sections 3698 and 3699 to be \$3,422,627, the amount of fees to be collected for the 2010 Calendar Reporting Year was \$3,466,351. These figures included a Cost of Living Adjustment (COLA) of 1.3 percent as taken from the California Consumer Price Index for 2010. The result was that there would be an increase in fees in the mine categories listed in CCR Section 3698 for the 2010 Calendar Reporting Year. A summary of approved mine fees and adjustments from 2000 to 2010 are graphically shown below:



### Summary of Approved Mine Fees



### Summary of Mine Fees Adjustments



At its March 10, 2011, regular business meeting, the SMGB accepted the 2010 Annual Mine Fees. Currently, most surface mining operations fall into two categories and small operators commonly pay as much as large ones. All industrial mineral sites (i.e., aggregate sites) are now at the maximum fee amount with exception to those surface mining operations producing 100 tons or less, all gold and silver producers are at the maximum fee amount with

exception to those producing 10 ounces or less, and all base and other metals producers are at the maximum fee amount with exception to those producing 10 pounds or less.

Most importantly, PRC Section 2207(d)(2)(A) requires fees to be calculated on an equitable basis reflecting the size and type of the operation, the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan. Several options are available to make the fee schedule more equitable and include:

- 1) A legislative change to increase the current ceiling amount of the fee for any single mining operation (\$4,000 per PRC Section 2207(d)(1) and/or total revenues generated by reporting fees (\$3,500,000 per PRC Section 2207(d)(3) as adjusted for the cost of living; current adjusted amount is \$4,173,834);
- 2) Amend the regulatory formula in calculating the annual mine fees (CCR Section 3398) with a legislative change in the ceiling amount for total fee revenues received and/or for each single surface mining operation;
- 3) Amend the regulatory formula in calculating the annual mine fees (CCR Section 3698) with no legislative change in the ceiling amount for total fee revenues received and/or for each single surface mining operation; or
- 4) Formulate another approach in determining annual mine fees (i.e., fixed or varying amount per acre and for the total number of acres in the approved reclamation plan, or disturbed acreage). Estimates of fee per acre have been developed for discussion purposes.

**EXECUTIVE OFFICER'S RECOMMENDATIONS:** The information being provided is for the Committee's discussion and consideration, and no recommendations are offered at this time.

Respectfully submitted:

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Stephen M. Testa  
Executive Officer